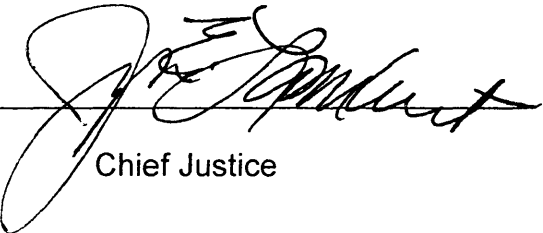


# Supreme Court of Kentucky

**IN RE: ORDER APPROVING AN AMENDMENT TO THE LOCAL RULES OF  
PRACTICE FOR THE FOURTH JUDICIAL CIRCUIT, HOPKINS CIRCUIT  
COURT**

An amendment to the Local Rules of Practice for the Fourth Judicial Circuit, Hopkins County, is hereby approved. The Child Visitation Guidelines previously adopted by the Hopkins Circuit Court are hereby amended as per the provisions set forth in the Parenting Guidelines, attached hereto.

ENTERED: October 21, 2002.



Chief Justice

# **HOPKINS CIRCUIT COURT PARENTING GUIDELINES**

## **AUGUST 2001**

### **Preamble**

When the parties' maturity, personality, and communication skills are adequate, the ideal situation is "reasonable visitation, upon reasonable notice," as that arrangement provides the greatest flexibility and maximizes the benefit to the children. The next best choice is a specific agreement between the parties designed to fit their particular schedules and the children's particular needs. However, if the parties are unable to agree, the following guidelines provide a basic structure for reasonable visitation.

It is usually in the children's best interests that each parent or custodian has frequent, meaningful, and continuing contact with the children. The parties, in exercising parenting time, should be cooperative and should adapt to the circumstances of the children and of both parties. Parenting time should be liberal and flexible.

These guidelines are not meant to foreclose the parties from agreeing to visitation in addition to those days herein outlined. This schedule is rather specific. Nonetheless, the parties are expected to fairly and reasonably modify visitation when family necessities, illnesses, or commitments so require. The parties are also expected to communicate these needs to the other and to provide as much advance notice as is possible, given the circumstances.

### **General Guidelines**

**Negative Conduct.** The parties should at all times avoid speaking negatively about each other and should firmly discourage such conduct by others. Children should never be used by one party to "spy" or "tell" on the other party and should not be given the responsibility of conveying messages between the parties. Additionally, children should not be asked to "keep a secret" from the other parent.

The children should be encouraged to respect all parties. The basic rules of conduct and discipline established by the residential party should be the basic standard

for all parties, and all parties should enforce these rules and expectations so that the children do not receive conflicting messages.

Parents should not discuss their marital problems with the child and should not argue with each other in the presence of the child. Neither parent should attempt to negatively impact the child's relationship with the other party by discussing the other parent's shortcomings. Parents should not ask the child to make adult decisions such as where or when they will visit, or where they want to live. Parents should not force the child to choose one parent over another. Parents should not question the child regarding the activities of the other parent.

Neither parent should discuss with the child the issues of custody awards, custody modifications, or child support unless both parents have agreed. If custody or child support modification is an issue, the parties should take the proper legal steps without discussion with the child. Additionally, neither parent should deny the child access to his or her other parent, nor should either parent threaten to do so, for disciplinary or other reasons.

Parents should not make promises to the child that cannot be kept. Further, parents should not attempt to buy the favor of the child with presents, special treatment, special privileges, or promises.

**Communication Between the Parties.** Parties shall, at all times, keep each other advised of their home and employment addresses and telephone numbers, including any cellular telephone numbers. All communication concerning the children shall be conducted between the parties either in person or by telephone and at their residences. Parties should refrain from communicating or contacting each other at their places of employment unless specifically prearranged or in the event of an emergency.

In the event that one party spends the night away from his or her normal residence during the child's visitation period, the other party should be notified of how to reach the child by telephone and should be provided with the address.

**Daily Routines of the Child and the Parents.** Both parents should keep the other advised of what his or her general daily schedule is, as well as phone number and locations of where he or she can be reached at most times of the day.

Parents should coordinate plans for bedtimes, homework schedules, and other household rules as much as possible. Once these schedules are set, both parents should adhere to them as closely as possible. When the children have homework assignments, each parent should work with the children on these assignments whenever the children are in his or her care.

The parents should discuss and agree upon how discipline will be consistently administered in both households and what actions require discipline. Both parents should be open to discussion of behavioral, emotional, academic, or other problems that the children may experience.

Both parents should realize that there are individual differences in how each will parent during the time spent with the child. Both parents should also realize that the child benefits greatly from consistency.

**Removing Child's Residence from Kentucky.** The residence of the child should not be removed from the Commonwealth of Kentucky without first obtaining a modified visitation order from the Court, or without the agreement of the non-residential parent.

When this jurisdiction is the residence of the parties and the children at the time of the initial order, and one party later moves from this jurisdiction, the visitation pattern will naturally change. The Court will give strong consideration to imposing most of the costs of transportation necessary to facilitate future visitation on the party that moved. However, the Court will also consider other factors, such as the economic circumstances of the parties and the reasons prompting the move.

**School Records and Medical Information.** Each custodial party is entitled to personally obtain and view academic reports, school notices, and medical records of the children. The non-custodial or non-residential party shall be entitled to access any and all

records of the children to the same extent, and under the same terms and conditions, as the custodial or residential party is entitled.

The residential party shall provide the non-residential party with academic reports, school notices, and medical reports as they are received, and shall, consistent with Kentucky law, permit the non-custodial or non-residential party to communicate directly with the school and with healthcare providers directly and outside the presence of the other party.

The custodial or residential party shall supply the keeper of any academic or medical records of the children with a copy of these guidelines.

**Educational Issues.** Parents should notify the child's teachers that the child spends time in two households. Parents should meet with the child's teachers or counselors (together if possible) to discuss behavioral or academic problems the child is experiencing and to adopt appropriate methods for solving these problems.

Each parent should inform the other of the child's extra-curricular activities, schedules, school photos, school programs, and any parent-related activities (such as parent-teacher conferences, PTA meetings, etc.). Parents should not ask the child to deliver these messages and should not depend upon the child to keep the other parent informed.

**Medical Treatment.** If the child has been prescribed medications or treatments, the custodial or residential party shall send a sufficient amount of medication, any necessary medical equipment, and appropriate instructions with the child.

Each party shall, as soon as possible, notify the other party of any medical emergency or serious illness of the children.

Elective procedures shall only be performed after both parties have been afforded the opportunity to discuss this option with the referring professional. Each party should be given adequate information to weigh the benefits and risks of this choice. If the parties are unable to agree regarding the need for the procedure, the child should be referred to the appropriate professional for an initial assessment and evaluation, as well as a recommended course of care. If the parties are still unable to agree (after evaluating

this information), each should exercise his or her legal option of seeking judicial approval prior to the decision.

Should one party learn that the child is in need of psychotherapy or counseling, that information should be given to the other parent. Both parents should be afforded the opportunity to discuss this option with the referring professional. If the parties are unable to agree regarding the need for such therapy or counseling, the child should be referred to the counselor for an initial assessment and evaluation, as well as a recommended course of treatment. If the parties are still unable to agree (after evaluating this information), each should exercise his or her legal option of seeking judicial approval of the decision.

**Healthcare Insurance.** The party who has secured healthcare insurance for the children shall promptly supply, as applicable, insurance forms, a list of approved healthcare providers, and the procedures for using the healthcare insurance to the other party. The party who, except in an emergency, takes the children to a healthcare provider who is not approved or qualified under the insurance plan shall bear the additional costs thus created.

When there is a change in insurance carriers that requires a change in healthcare providers and when the child has a chronic illness, the parties should give thoughtful consideration to whether it is more important to allow the child to remain with the original provider or to take advantage of the possible economic advantages of changing providers.

When one party is obligated to pay part or all of the children's medical expenses, the obligated party shall be promptly furnished with the billings. The parties shall cooperate in appropriately submitting medical bills to the insurance carrier. The parties shall make arrangements directly with the healthcare providers to assure that the appropriate party is billed directly by the providers.

**Religious Training.** Each parent is entitled to choose and follow his or her own religious beliefs and further to teach those beliefs to the child. Each parent should provide the other with information concerning any religious training or teaching in which

they have formally or informally enrolled the child and should provide the name of the place of worship to the other parent.

**Clothing.** The residential party shall send an appropriate supply of clean clothing for the children. This clothing should be returned with the children, clean and in good repair (when reasonably possible). The non-residential party should advise the other parent of any special activities that may be scheduled so that the residential party will know what type of clothing and what amount of clothing is appropriate for the visit.

**Necessary supplies.** Both parents should provide the supplies needed to adequately care for the child during his or her parenting time. This includes, but is not limited to, a crib or toddler bed (if necessary), linens, diapers, wipes, bottles, formula, humidifiers, shampoo, soap, lotion, diaper cream, toys and books, thermometer, the appropriate dosages of Tylenol or other brand of acetaminophen, syrup of ipecac, Band-Aids, first aide kit, etc.

**Feeding, Grooming, Hygiene, and General Care.** Both parents should maintain the proper food and equipment to adequately feed the child during his or her parenting time. Additionally, both parents should be aware of food sensitivities, their symptoms, and treatment, and should know the feeding routines of the child.

If the child is breastfed, both parties should educate themselves concerning the proper handling, storage, and preparation of breast milk. Additionally, the breastfeeding mother should be prepared to pump and to provide adequate milk for the child during the father's parenting time.

Each parent should properly bathe and groom the children during the time that the children are in his or her care. Each parent should maintain adequate supplies for grooming and first aide.

**Transportation Costs.** Unless otherwise agreed, the parties should share the costs of transportation in the same proportion as they bear the total child support obligation.

**Privacy of Residence.** Neither party shall enter the other's residence without express invitation. Unless otherwise agreed or ordered, the children shall begin and end the visitation periods at the front entrance of the appropriate residence.

**Intoxicants.** Each party has the right to refuse to relinquish the children to anyone, including a parent, who is under the influence of any intoxicant.

**Driver's License, Child Restraint Systems, and Seat Belts.** When transporting the child, parents should hold a valid operator's license. If a parent is unable to transport the child, arrangements should be made to utilize a licensed driver.

All parties are required to secure the children in an appropriate child restraint system or to require the children to wear seat belts when transporting them or when arranging for their transportation with someone else. Infants under one year of age should be secured in a rear-facing infant car seat located in the rear seat of the vehicle. Children over one year of age and under forty inches in height should be secured in a car seat in the rear seat of the vehicle.

Children over forty inches and under 65 pounds should be secured in a booster seat or seat belt, whichever is appropriate, in the rear seat of the vehicle. No child under 12 should be permitted to ride in the front seat of a vehicle equipped with a passenger airbag.

Parties should not allow children of any age to ride in the rear bed of trucks without the prior consent of the other party and are strongly discouraged from doing so.

**Notice of Cancellation and Duty to Wait.** The children and the custodial or residential party have no duty to wait for the visiting party more than thirty (30) minutes from the starting time of the visitation. A party more than thirty (30) minutes late shall forfeit that visitation period.

Parties should be prompt with child appointments. It is unfair to keep a child waiting, and worse, to disappoint a child by not appearing at all. It is equally unfair to the child when access is delayed due to the child, or the child's belongings, not being ready on time.



Whenever possible, each parent is obligated to give a minimum of three (3) days notice of intent to modify or to cancel all or part of a scheduled visitation period. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason for modifying or canceling the visitation, shall be given.

**Visitation Periods Missed Due to Illness or for Good Cause.** When, for good cause or illness, a scheduled visitation cannot occur, a substituted and mutually agreeable visitation date shall be arranged, as quickly as possible. Each party shall give timely notice of a visitation period that cannot be exercised.

**Notice of Intent Not to Exercise Visitation.** Whenever possible, the non-residential party shall give a minimum of three (3) days notice of intent NOT to exercise all or party of a scheduled visitation. When such notice is not reasonably possible, one should provide the maximum notice permitted by the circumstances and the reason for not exercising the visitation. Conversely, the custodial or residential party shall give the same type of notice, when good cause exists that necessitates cancellation or modification of a scheduled visitation.

**Child Support During Visitation Periods.** Unless a court order otherwise provides, the obligation to pay child support continues throughout the visitation period.

**Withholding Support or Visitation.** Both parents have a responsibility to care for the child's physical, emotional, mental, and social needs. Both parents are reminded that parent/child access and child support, although emotionally connected, are separate legal issues. Neither visitation, nor child support, may be withheld because of another party's failure to comply with a court order. The children have a right to both support and visitation. They are mutually exclusive and neither is dependent upon the other.

If there is a violation of either a visitation or support order, the only remedy is to apply to the Court for appropriate sanctions. Only the Court may enter sanctions for non-compliance and only the Court may modify child support obligations.

**Childcare.** Children enjoy doing casual, ordinary things and just spending time in the presence of their parents. A child needs to spend time with both parents; therefore, a child should not be left alone too often with relatives, boyfriends, girlfriends, or other persons during the visitation periods.

The Court recognizes the need for parents to attend employment and to seek childcare during those hours. Further, the Court recognizes that it may be necessary for the parent exercising parenting time to utilize childcare in order to work. Parties should discuss the options available, should agree upon the person or facility to provide such care, and should advise each other of how to contact the childcare providers. If at all possible, the parents are encouraged to provide childcare for each other.

**Child's Birthday and Gifts.** The parties are encouraged to celebrate the child's birthday with the child. However, should the parties not desire to celebrate the day together, the parties shall alternate the child's birthday, as if it were a holiday, with the residential parent allowed the odd-numbered birthdays and the non-residential parent allowed the even-numbered birthdays. If the child celebrating a birthday has siblings, those siblings should participate by visiting the parent entitled to visitation on that day. (See specific guidelines for times and conflict procedures.)

Each parent should be permitted to give the child appropriate birthday presents and gifts to commemorate other occasions. However, to avoid conflict and to encourage parental teamwork, parents should coordinate gifts for birthdays and other special occasions prior to giving them to the child.

**Telephone Visitation and Mail.** The parties are encouraged to frequently speak with the children at times mutually agreeable between the parties and the children. However, should the parties not be able to agree, the party with whom the child is staying shall make the child (age 2 and older) available to receive the telephone call from the other party on Tuesday evenings between the hours of 6 p.m., CST and 7 p.m., CST and on Saturday mornings between the hours of 9 a.m., CST and 10 a.m., CST. The party placing the telephone calls should bear the expense of the calls unless other arrangements

have been made between the parties. All parties should keep the other parties advised of current residential telephone numbers and cellular numbers.

The parties should encourage the child to maintain contact through the use of mail, either electronic or postal, where appropriate.

**Extracurricular Activities.** Visitation with the non-residential party takes precedence over extracurricular activities when the visitation cannot be reasonably scheduled so as not to conflict with these events. Even so, the non-residential party is encouraged to participate in the child's activities and in the parental responsibilities that accompany them.

The residential party shall notify the other parties of all school events and of all organized activities (e.g., music lessons, soccer practices, Girl Scout meetings, etc.). If the child is scheduled to attend an organized activity in which the child has been regularly participating and that attendance should occur during the visitation of the non-residential party, that party should be responsible for assuring the child's attendance at the event, if at all possible.

By the same token, the residential party should arrange the child's schedule so that these events do not interfere with meaningful parenting time between the child and the non-residential party.

**Conflicts.** When there is a conflict between a holiday weekend and the regular weekend visitation, the holiday weekend takes precedence. Thus, if the non-residential party misses a regular weekend because it is the residential party's holiday, the regular alternating visitation schedule will resume following the holiday. If the non-residential party receives two (2) consecutive weekends because of a holiday, regular alternating visitation shall resume the following weekend with the residential party. (See specific guidelines.)

**Vacations of Parties.** In cases where the non-residential parent is afforded at least a two-week summer visitation period, the residential party is also entitled to a two-week summer vacation with the children. During these periods, the visitation of the

other party shall abate during the first fourteen (14) days and shall not be subject to rescheduling. (See specific guidelines.)

**Visitation as a Shared Experience.** It is intended that visitation be a shared-experience for siblings. Therefore, unless otherwise excepted, all of the children shall participate in the visitation periods. It is recognized that the age of the children, or the activities or illnesses of the children may occasionally prohibit this.

Children need special time with each parent. Therefore, parents are encouraged to spend some special “one-on-one” time with each child.

**Extended Families.** Parties are encouraged to foster ties between the children and both their maternal and paternal relatives. In most cases, the children will be able to visit their paternal relatives when they are with their father, and their maternal relatives when they are with their mother.

### **SPECIFIC DATES OF VISITATION**

Parents are strongly encouraged to mutually arrange the dates and times of each party’s parenting time with the children. The non-residential parent is entitled to reasonable visitation with the child. What constitutes “reasonable” depends upon the circumstances of each case and the maturity levels of the child. These guidelines do not presuppose that the dates listed will constitute “reasonable” for each case. If the parties cannot agree, the Court will determine what is “reasonable.”

However, the dates and times listed herein may serve as a guideline for parents discussing parenting arrangements and parenting plans. It should be noted that generally, these guidelines should be construed to provide the minimum amount of visitation for the non-residential parent. The parties are strongly encouraged to exceed these amounts or durations in their agreements.

### Alternating Holiday Visitation

Holidays of importance to the parties should be divided between the parents, pursuant to a mutually agreeable schedule. However, should the parties be unable to agree, the following eight holidays (plus others of individual importance to the family) shall be divided between the parents:

- |                     |                                 |
|---------------------|---------------------------------|
| (1) New Years' Day  | (2) Martin Luther King, Jr. Day |
| (3) Presidents' Day | (4) Easter                      |
| (5) Memorial Day    | (6) July 4 <sup>th</sup>        |
| (7) Labor Day       | (8) Halloween                   |

In odd-numbered years, the mother shall exercise parenting time with the child on the odd-numbered holidays in the left column above, and the father shall exercise parenting time with the child on the even-numbered holidays in the right column above. In the even-numbered years, the father shall exercise parenting time on the odd-numbered holidays, and the mother shall exercise parenting time on the even-numbered holidays.

Visitation on these days shall be from 8 a.m., CST until 5 p.m., CST, unless the child is in school on that day. If the child is in school on that day, visitation shall begin at the time the child is released from school and shall continue until 7 p.m., CST that evening.

If the holiday falls on a Friday preceding, or a Monday following a parent's regularly scheduled parenting time, there shall be no interruption in the visitation and the parenting period shall extend until the regularly scheduled visitation period ends, or until the holiday visitation ends, whichever is later. (For example, if the holiday is a Monday and the non-residential parent will enjoy time with the children the preceding weekend, the parent's time with the children does not end on Sunday evening, but extends until Monday evening at 7 p.m., CST.)

When there is a conflict between a holiday weekend and the regular weekend visitation, the holiday takes precedence. Alternating weekend visitation should resume the following weekend, with the parent who was not visiting with the children over the holiday weekend.

**Weekly and Holiday Parenting Time--Children Ages 0-3 months.**

The non-residential parent should be entitled to exercise parenting time with the infant of 0-3 months for two consecutive hours, on three separate days each week, to be arranged by the parties. If the parties are unable to agree, then the parenting time for the non-residential parent shall be set at 6 p.m. until 8 p.m., CST on Tuesday and Thursday evenings, and at 9 a.m. until 11 a.m., CST on Saturday mornings.

The non-residential parent shall be entitled to exercise parenting time with the infant of 0-3 months from 9-11 a.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve.

**Weekly and Holiday Parenting Time--Children Age 4-7 months.**

The non-residential parent of an infant of aged 4 months to 7 months shall be entitled to exercise parenting time with the child for three hours on three separate days each week, to be arranged by the parties. If the parties are unable to agree, then the parenting time for the non-residential parent shall be set at 5 p.m. until 8 p.m., CST on Wednesday and Friday evenings, and at 1 p.m. until 4 p.m., CST on Sundays.

The non-residential parent shall be entitled to exercise parenting time with the infant of 4-7 months from 5-8 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve.

**Weekly and Holiday Parenting Time--Children Ages 8-11 months.**

The non-residential parent of an infant aged 8-11 months shall be entitled to exercise parenting time with the child for eight hours on two separate days each week, to be arranged by the parties. If the parties are unable to agree, then the parenting time for the non-residential parent shall be set at 8 a.m. until 5 p.m., CST on Saturdays and Wednesdays.

The non-residential parent shall be entitled to exercise parenting time with the infant of 8-11 months from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve.

**Weekly and Holiday Parenting Time--Children Ages 12-24 months.**

The non-residential parent of a toddler aged 12 to 24 months shall be entitled to exercise parenting time with the child from 6 p.m., CST on alternating Friday evenings to the following Saturday evening at 6 p.m., CST. During the alternate week, the non-residential parent shall be entitled to exercise parenting time with the child from 6 p.m., CST on Saturday evening to 6 p.m., CST on the following Sunday evening.

Additionally, the non-residential parent shall be entitled to exercise parenting time from 5 p.m., CST until 7:30 p.m., CST each Tuesday evening.

The non-residential parent shall be entitled to exercise parenting time with the toddler of 12-24 months from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday.

#### **Weekly and Holiday Parenting Time—Children Ages 2-4 years.**

The non-residential parent shall be entitled to exercise parenting time with a child aged 2-4 years from 6 p.m., CST on alternating Friday evenings, until 6 p.m., CST on the following Sunday evenings, and from 5 p.m., CST until 7:30 p.m., CST each Tuesday and Thursday evening.

The non-residential parent shall be entitled to exercise parenting time with the child of 2-4 years from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, on Christmas Eve in odd-numbered years, and on Christmas Day in even-numbered years. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday.

#### **Weekly and Holiday Parenting Time—Children Ages 5-11 years.**

The non-residential parent shall be entitled to exercise parenting time with a child aged 5-11 years from 6 p.m., CST on alternating Friday evenings, until 6 p.m., CST on the following Sunday evenings, and from 5 p.m., CST until 7:30 p.m., CST each Tuesday and Thursday evening.

The non-residential parent shall be entitled to exercise parenting time with the child of 5-11 years from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Thanksgiving Day and Christmas Eve in odd-numbered years, on the Friday following Thanksgiving and Christmas Day in even-numbered years, and on Mothers' Day or Fathers' Day (whichever is appropriate). Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday.

#### **Weekly and Holiday Parenting Time—Children Ages 12 years and up.**

Parents of children this age are encouraged to attempt to schedule the non-residential party's parenting time in accordance with the child's agenda. However, it should never be left to the child's decision whether visitation is to be exercised or shortened. The parents should consult with the child, but are not bound by the child's wishes and should never give the child that impression.

The non-residential parent shall be entitled to exercise parenting time with a child aged 12 years and up from 6 p.m., CST on alternating Friday evenings, until 6 p.m., CST on the following Sunday evenings, and from 5 p.m., CST until 7:30 p.m., CST each Tuesday and Thursday evening.

The non-residential parent shall be entitled to exercise parenting time with the child of 12 years and up from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day and Christmas Eve in odd-numbered years, and on the Friday following Thanksgiving and Christmas Day in even-numbered years. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday.

### **School Holidays, Fall Breaks, Spring Breaks**

If the child, age 4 and older, is enrolled in preschool or school, or is being home schooled by a parent, and will receive vacation days from school, those days (not specifically mentioned herein) should be totaled and divided equally between the parents. If the child is scheduled to receive vacation days from school, but has been referred to attend extended school during any of those days, those days should not be included in counting the total number of days of vacation. The parents are encouraged to mutually schedule this division of time so that it will most benefit the child and best accommodate everyone's schedule.

However, should the parents not be able to agree regarding the specific division of time, the following arrangement may provide a reasonable solution. The regularly scheduled parenting time during these periods should abate and is not subject to rescheduling.

**1. Fall Break.** If the school the child is attending incorporates a fall break into its calendar, or if the child is home-schooled, the parents should equally divide the time allotted. In odd-numbered years, the residential parent should enjoy parenting time with the children from 6 p.m., CST on the Friday that school is released (or the first Friday in October for home-schools) until 6 p.m., CST the following Friday, at which time the non-residential parent should begin parenting time with the children and should be entitled to continue this time until 3 p.m., CST on the Sunday before the children will return to school. In even-numbered years, this order should be reversed.

If the school calendar provide for more or less than two weeks of fall break, or if the child is required to attend (or does attend) extended school during any part of this break, the time remaining (including weekends) shall be equally divided between the parties, with the residential parent enjoying visitation during the first one-half of that



period in even-numbered years and the non-residential parent enjoying visitation during the first one-half of that period in odd-numbered years.

**2. Thanksgiving Break.** The parent entitled to exercise visitation with the child on Thanksgiving Day should be entitled to begin his or her visitation on the Tuesday evening preceding that day if the child is not in school on the Wednesday preceding Thanksgiving Day (or is home-schooled). The parent entitled to exercise visitation with the child on the Friday following Thanksgiving Day should be entitled to exercise parenting time with the child until 3 p.m., CST on the Sunday of that weekend.

**3. Christmas Break.** The non-residential parent should be entitled to exercise parenting time with the child from December 27 at 6 p.m., CST until January 1 at 9 a.m., CST. If the non-residential parent is entitled to visitation on that January 1, then the visitation should continue until 6 p.m., CST on January 1.

**4. Spring Break.** If the school the child is attending incorporates a spring break into its calendar, or if the child is home-schooled, the parents should equally divide the time allotted. In odd-numbered years, the residential parent should enjoy parenting time with the children from 6 p.m., CST on the Friday that school is released (or the third Friday in March for home-schools) until 6 p.m., CST the following Friday, at which time the non-residential parent should begin parenting time with the children and should be entitled to continue this time until 3 p.m., CST on the Sunday before the children will return to school. In even-numbered years, this order should be reversed.

If the school calendar provides for more or less than two weeks of spring break, or if the child is required to attend (or does attend) extended school) during any part of this break, the time remaining (including weekends) shall be equally divided between the parties, with the residential parent enjoying visitation during the first one-half of that period in even-numbered years and the non-residential parent enjoying visitation during the first one-half of that period in odd-numbered years.

**5. School Holidays or Shortened School Days not mentioned.** If the school the child is attending incorporates a holiday not herein mentioned, or if the school has a scheduled shortened day, the parents should alternate these days to equalize the time spent with both parents. As previously mentioned, the parties are encouraged to provide childcare for each other.

If the parties are unable to agree regarding the division of the shortened days, the residential parent should be entitled to enjoy parenting time with the child on the first, third, fifth, seventh, and ninth scheduled shortened day of each school year. The non-residential parent should be entitled to enjoy parenting time with the child on the second, fourth, sixth, eighth, and tenth scheduled shortened day of each school year, beginning at the time school is released for the day and continuing until 6 p.m., CST that evening.

If the parties are unable to agree on the school holidays that are not specifically mentioned herein, the non-residential parent should be entitled to exercise parenting time with the child from 8 a.m., CST until 6 p.m., CST on the first, third, fifth, seventh, and ninth school holiday not specifically mentioned herein. If this holiday falls on a Friday preceding, or a Monday following the non-residential parent's regularly scheduled

visitation period, the visitation period should not be interrupted at 6 p.m., CST on the holiday, but should continue until the regularly scheduled visitation period ends.

### **Summer Visitation Schedules**

Each party shall give the other party at least sixty (60) days written notice of his or her planned vacation schedule so that both parties have an opportunity to have the children during their vacations. There shall be no visitation the weekend before the beginning of each of the non-residential parent's summer vacation visitation periods.

Vacation periods shall begin at 9 a.m., CST on the appropriate Friday and shall continue until the appropriate Sunday at 6 p.m., CST. (This allows the vacationing parent to continue the visitation period through consecutive weekends.) That parent's alternating weekend parenting time shall resume the SECOND weekend following each period. Weekend visitation "missed" due to scheduled summer vacation periods is not subject to being "made up," or rescheduled.

During any extended summer vacation or visitation of more than three (3) consecutive weeks, the parent with whom the child is visiting shall arrange a 48-hour continuous period of visitation for the other parent, unless impractical because of distance. This 48-hour period shall be arranged at a time mutually convenient for the parties.

**For children between the ages of 12 and 24 months**, the non-residential parent is entitled to one period of visitation during the summer, to begin on the designated Friday and to continue until the second Sunday following (approximately 10 days).

**For children aged 2 to 4 years**, the non-residential parent is entitled to two separate periods of visitation during the summer, to begin on the designated Fridays and to continue until the second Sundays following (approximately 10 days each).

**For children aged of 5 to 7 years**, the non-residential parent is entitled to three separate periods of visitation during the summer, to begin on the designated Fridays and to continue until the second Sundays following (approximately 10 days each).

**For children aged 8 to 11 years**, the non-residential parent is entitled to two separate periods of visitation, to begin on the designated Fridays, and to continue until the third Sundays following (approximately 16 days each).

**For children aged 12 years and older, the non-residential parent is entitled to two separate periods of visitation, to begin on the designated Fridays, and to continue until the third Sundays following (approximately 16 days each) in odd numbered years. In even-numbered years, the non-residential parent is entitled to one period of visitation to begin on the designated Friday, and to continue until the fifth Sunday following (approximately 31 days).**

**SPECIFIC DATES OF VISITATION FOR  
PARENTS RESIDING OVER 150 MILES APART**

When parents reside great distances apart from each other, the Court is aware that communication and visitation require a great deal of effort on the parts of both parties. Parties are encouraged to cooperate and to compromise in order to effectuate the greatest benefit for the child.

The guidelines for specific dates of visitation provided in this section may be incompatible with the parties' individual schedules, unadvisable because of the child's school calendar, or impractical given the distances. For these reasons (and others), it is impossible for the Court to list specific dates, and expect that those dates will effectively serve all litigants.

Parties are urged to reach a flexible agreement regarding specific dates and times, using the durations and number of days given as a guide. Parties are reminded that non-residential parents are entitled to "reasonable" visitation, given the particular circumstances. Holiday designations outlined in previous sections should also govern parenting times of those parties residing over 150 miles apart.

**Parenting Time—Children up to 12 months of age**

The non-residential parent shall be entitled to exercise parenting time with a child under the age of 12 months up to 52 nine (9) hour periods annually. Additionally, the non-residential parent shall be entitled to exercise parenting time from 8 a.m. until 5 p.m., CST on his or her designated holidays (as provided by these guidelines, on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve.

**Parenting Time—Children 12-24 months of age**

The non-residential parent shall be entitled to exercise parenting time with a child between the ages of 12 and 24 months up to 26 twenty-four (24) hour periods annually, with no more than 3 periods being exercised consecutively. Additionally, the non-residential parent shall be entitled to exercise parenting time from 8 a.m. until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday or the weekend.

**Parenting Time—Children 2-4 years of age not enrolled in school**

The non-residential parent shall be entitled to exercise parenting time with a child between the ages of 2 and 4 years up to 26 forty-eight (48) hour periods annually, with no more than 3 periods being exercised consecutively. Additionally, the non-residential parent shall be entitled to exercise parenting time from 8 a.m. until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday or the weekend.

**Parenting Time—Children 4 years of age and older, and enrolled in school**

Parenting times of both parents should be governed by the section titled "School Holidays, Fall Breaks, Spring Breaks" as those guidelines specifically refer to an equal division of the vacation days scheduled by the child's school. Additionally, the non-residential parent should be entitled to exercise parenting time at least one weekend per month (from 6 p.m. CST Friday to 3 p.m., CST Sunday) and from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday or the weekend.

**Parenting Time—Children 4 years of age and older, not enrolled in school**

The non-residential parent should be entitled to exercise parenting time with a child of four or older, at least 6 seven (7) day periods annually, with no more than two periods being consecutive. Additionally, the non-residential parent should be entitled to exercise parenting time at least one weekend per month (from 6 p.m. CST Friday to 3 p.m., CST Sunday) and from 8 a.m., CST until 5 p.m., CST on his or her designated holidays (as herein provided), on Mothers' Day or Fathers' Day (whichever is appropriate), on Thanksgiving Day, and on Christmas Eve. Should the holiday precede or follow a weekend or a weekday that the non-residential parent would normally enjoy visitation, the child should be allowed to remain in the non-residential parent's care until the expiration of the holiday or the weekend.

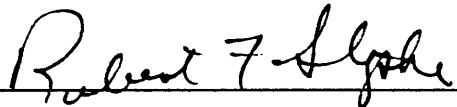
# Supreme Court of Kentucky

IN RE: ORDER AMENDING LOCAL RULES  
RULES OF PRACTICE OF THE HOPKINS CIRCUIT COURT

## ORDER

The order amending Rule 2, Motion Practice, and Rule 7, Pre-Trial Practice, of the Rules of Practice of the Hopkins Circuit Court, 4th Judicial Circuit, is hereby approved by the undersigned.

ENTERED July 27, 1991.

A handwritten signature in cursive script, reading "Robert F. Slye", is written over a horizontal line.

Chief Justice

COMMONWEALTH OF KENTUCKY  
FOURTH JUDICIAL CIRCUIT  
HOPKINS CIRCUIT COURT  
MADISONVILLE, KENTUCKY 42431

HOPKINS COUNTY CIRCUIT COURT

ENTERED

07-08-91

Paul A. Summers, Clerk

By

Q. L. W.  
J.C.

REVISIONS OF THE RULES OF PRACTICE  
OF THE HOPKINS CIRCUIT COURT

The Rules of Practice of the Hopkins Circuit Court,  
Fourth Judicial Circuit are hereby amended as follows:

I. Rule 2. Motion Practice

Added as subparagraph D is:

MOTIONS UNDER CR 78(2).

A movant at his option may bring his motion under the provisions of CR 78(2) which, it will be recalled, makes provisions for the determination of motions without oral hearings upon brief written statements of reasons in support and opposition.

The Movant in his certificate of service or elsewhere in the motion shall state that the motion is made under CR 78(2) and shall direct the opposing attorney's attention to the fact that under this local rule the motion may be granted routinely by the Court ten days after filing unless an objection is received or a response filed.

Should the party opposing the motion under Rule Cr 78(2) wish to have an oral hearing on the question he may in his response so state, and shall proceed to have the motion set on the motion docket pursuant to Rule 2 B.

(COMMENT: It is believed that this Rule will simplify things for attorneys who are making fairly routine motions, such as to amend a complaint or to bring in a third party defendant, which motions are usually routinely granted. If the opposing party has any statement to make in opposition to the motion he has the choice of simply filing a written response, and the court will then decide the question under Rule 78(2), or the attorney opposing the motion may file a response and set an oral hearing, all as provided earlier in these rules.)

## II. Rule 7 Pre-Trial Practice

### Section A. Civil Cases shall now read:

1. It is the practice in the Hopkins Circuit Court that no civil case will be set for trial before a jury until a final pretrial conference has been conducted.
2. A final pretrial conference will not be conducted until all pretrial steps, including all discovery, are completed.
3. Any party shall have the right to move the Court to set a pretrial conference. If it appears at the hearing on the motion to set a pretrial conference, or during a pretrial conference set on motion of any party, that all pretrial steps and discovery have not been completed, then at the request of any party, or the Court on its own motion may enter a scheduling order fixing specific times for pretrial steps and discovery to be completed. If the Court enters a scheduling order, then the schedule so set by the Court's order shall be modified only upon a clear showing of good cause by the party seeking to change or



amend the scheduling order. Notwithstanding the provisions of this subparagraph, the Court, upon the motion of any party or upon its own motion, may enter a scheduling order at any time during the pendency of any action.

4. At the pretrial conference counsel shall deliver to the Court and to opposing counsel proposed jury instructions in jury cases; shall disclose the identity of all trial witnesses; and, shall be prepared to bring to the attention of the Court, significant evidentiary or procedural issues which are likely to arise during the trial.

5. Following the final pretrial conference, the Court will cause a pretrial order to be entered which will reflect that all pretrial steps have been completed, that all discovery has been completed, the names of the witnesses identified by each party to be called during the trial, fixing a specific date and time at which each party shall produce for inspection and copying by the other party all exhibits to be introduced at trial by each party, and such other matters as the Court may have ruled upon during the pretrial conference, including, but not limited to, specific evidence which may be admitted, specific evidence which may be excluded, waiver, if any, of the order of proof, and other matters which the Court may deem appropriate.

6. The pretrial order shall set the case for trial before a jury on a day certain.

7. The pretrial order may also contain such other specific matters as the Court may determine to be appropriate in any particular case.

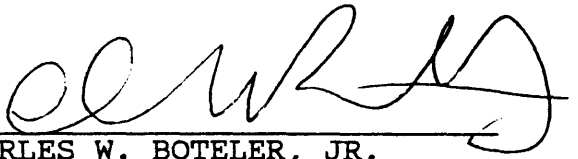
8. The pretrial order will be modified by the Court only in order to correct any mistake which may be contained therein or upon a clear showing of good cause by the party seeking to change, alter or amend the pretrial order.

III.

EFFECTIVE DATE


These amendments to the local rules of practice shall be effective August 1, 1991. They are adopted pursuant to the authority granted by Rule 83 of the Kentucky Rules of Civil Procedure, and shall be certified to the Chief Justice of the Supreme Court as provided therein.

Adopted this the 8<sup>th</sup> day of July, 1991.

  
CHARLES W. BOTELE, JR.  
JUDGE, HOPKINS CIRCUIT COURT

COMMONWEALTH OF KENTUCKY  
SCT  
COUNTY OF HOPKINS

I, Paul A. Summers, Clerk of the Circuit Court in and for the State and County aforesaid, hereby certify that the foregoing is a true and correct copy of the amendments to the Rules of Practice of the Hopkins Circuit Court, Fourth Judicial Circuit, effective August 1, 1991, and that said amendments to the Rules of Practice were entered of record in my said office on the 8<sup>th</sup> day of July, 1991.

  
PAUL A. SUMMERS  
CLERK, HOPKINS CIRCUIT COURT

COMMONWEALTH OF KENTUCKY  
FOURTH JUDICIAL CIRCUIT  
HOPKINS CIRCUIT COURT  
MADISONVILLE, KENTUCKY 42431

RULES OF PRACTICE  
(Effective September 1, 1976,  
unless otherwise noted)

RULE 1. JURY TERMS

January Term: Beginning on the first Monday in January and running four weeks or twenty-four juridical days.

March Term: Beginning on the first Monday in March and running four weeks or twenty-four juridical days.

May Term: Beginning on the first Monday in May and running four weeks or twenty-four juridical days.

September Term: Beginning on the first Monday in September and running four weeks or twenty-four juridical days.

November Term: Beginning on the first Monday in November and running four weeks or twenty-four juridical days.

A Grand Jury shall be empanelled on the first day of each term and shall continue in session from time to time as ordered by the Court until the next Grand Jury is empanelled.

If the first day of the jury term falls on a legal holiday, the term will begin on the following day. The number of juridical days specified above shall be reduced by the number of legal holidays falling during the period.

The first two weeks of each term shall be devoted to the handling of criminal matters and cases, and the second two weeks of each term shall be devoted to the disposing and trial of civil matters and cases. (Effective January 3, 1977)

Although there are portions of each jury term set out and designated for criminal and civil business, criminal cases may be assigned for trial during the civil portion of each term and civil cases may be assigned for trial during the criminal portion of each term except that no civil cases will be set during the criminal portion of any term except by order of the Court with agreement of the Commonwealth's Attorney.

All criminal cases shall be assigned for trial at the time of arraignment or on the Motion Day falling on the third Monday during a jury term, unless continued by the Court upon motion for good cause.

On the days of the term of court when no case has been set for trial, and/or no matter is before the Court, the Judge may, in his discretion, be absent.

## RULE 2. MOTION PRACTICE

### A. Motion Days.

The first Monday and the third Monday of each month are designated as Motion Days. If any such day falls on a legal holiday, then it shall be postponed to the next day.

### B. Motions and Motion Docket.

Written motions, other than those that may be heard ex parte, and notice of the hearing thereof, shall be served at least three days, exclusive of Saturdays, Sundays and holidays, before the time specified for the hearing, unless a different period is fixed by the Rules of Civil Procedure, any applicable Statute, or Court Order.

The Clerk shall keep a motion docket for those motions designated either by Court Order or notice duly served to be heard on a regular Motion Day. This motion docket will be mailed by the Clerk to all practicing attorneys of the Fourth

Judicial Circuit on Wednesday before each Motion Day and this motion docket will be called on Motion Day and the motions will be heard in the order docketed, except that the Court will first consider motions to set for trial and any other motions not requiring a hearing.

Every motion, other than those which may be heard ex parte, shall appear upon the motion docket. At the time notice of the motion is served on the adverse party, a copy of the notice and motion shall also be furnished to the Judge of the Court at his office at Madisonville, Kentucky, and failure to so furnish such a copy shall be cause for the Court to delay hearing of said motion until the next motion day, if the Court so desires.

An Order continuing the hearing of a motion to a later date shall be prepared, where appropriate, by the movant and filed with the Clerk after execution by the Judge, so that the motion may be docketed for the date to which continued.

The Court, in its discretion, may hear and determine any motion or other matter before it at any time in accordance with the Rules of Civil Procedure.

#### C. Notice of Motions.

All motions, except those included in an answer, and all exceptions or objections taken to any commissioner's report or opinion, when served on the adverse party, shall be accompanied by a notice setting a certain date on which said motion shall be heard. Any such motion or exception or objection not accompanied by a notice of the date for the hearing of said motion may be treated as if no motion had been filed.

RULE 3. FORM AND ENTRY OF ORDERS AND JUDGMENTS

In all civil cases, whenever any ruling is made or verdict, decree or judgment rendered, an order, decree or judgment in conformity therewith shall be promptly prepared by counsel for the successful party as a separate instrument, shall be endorsed "have seen" by counsel for all parties thereto as being in conformity to the ruling, decree or judgment, and shall be presented to the Court. If the party against whom the order or judgment is endorsed is not represented by counsel, that fact shall be endorsed thereon.

All such orders, decrees and judgments, as well as all pleadings and motions, shall bear a heading as follows:

COMMONWEALTH OF KENTUCKY  
HOPKINS CIRCUIT COURT  
MADISONVILLE, KENTUCKY 42431  
CIVIL ACTION NO. \_\_\_\_\_

When signed by the Judge, the order or judgment shall be delivered to the Clerk for entry. It is suggested that to facilitate matters, counsel preparing the order or judgment may want also to deliver to the Clerk a sufficient number of copies thereof, together with properly addressed stamped envelopes, to assist the Clerk to complete service thereof when required by CR 77.04. Counsel may waive in writing service of any order or judgment and notice of entry.

RULE 4. WARNING ORDER ATTORNEYS

Every Warning Order Attorney shall mail a copy of his letter to the defendant(s), to plaintiff's counsel, and to the Clerk for the record.

RULE 5. ANSWERS TO WRITTEN INTERROGATORIES

In answering written interrogatories served on a party, each interrogatory shall be restated, followed by the answer.

#### RULE 6. COURT REPORTER

The official court reporter will be present for all civil cases if not otherwise notified in advance of the day when the case is set for trial. Her per diem will be taxed as costs for her appearance. If the case be continued without advance notice to the court reporter, her costs shall be paid by the party or parties obtaining or causing the continuance.

The official court reporter will report all criminal cases without notice.

All Grand Jury testimony shall be reported by the grand jury stenographer, whose name shall appear on the indictment, and shall be transcribed upon Motion and Order of the Court. The Clerk shall forward a copy of each such Order to the grand jury stenographer.

#### RULE 7. PRE-TRIAL PRACTICE

##### A. Civil Cases.

It is the practice in the Hopkins Circuit Court for all civil cases to be tried before a jury to be set for a pre-trial conference by the Court on its own motion once the case has been assigned for trial for a day certain. Ordinarily, such a pre-trial conference will be held approximately three (3) weeks before the trial date.

Civil cases to be tried before the Court may be assigned for pre-trial conference on the motion of either party or on the Court's own motion.

##### B. Criminal Cases.

Criminal cases may be assigned for pre-trial conference on the motion of the Commonwealth or of the Defendant or on the Court's own motion.



C. All Cases.

The Attorney who has the responsibility for the trial of a case, or some attorney designated by him and fully acquainted with the case and authorized completely to act in his absence, is expected to attend the pre-trial conference.

RULE 8. PRE-SENTENCE, PROBATION REVOCATION  
AND "SHOCK" PROBATION HEARINGS


It is the practice in the Hopkins Circuit Court that a pre-sentence hearing will be held in open court in every criminal case wherein the punishment that has been fixed includes any term of imprisonment. Likewise, a hearing will be held in every case in which the Commonwealth has filed a Motion for the Court to revoke probation of a Defendant. At either such hearing, the Defendant may testify and may call witnesses.

On a Motion by a Defendant for the Court to suspend further execution of a sentence of imprisonment, or for the Court to grant work release, or on a motion by the Commonwealth to revoke a work release program, the Court, in its discretion, may hold a hearing in open Court. At any such hearing, the Defendant may testify and may call witnesses. The Commonwealth may likewise call witnesses.

EFFECTIVE DATE

These rules shall be effective September 1, 1976, unless otherwise noted. They are adopted pursuant to the authority granted by Rule 83 of the Kentucky Rules of Civil Procedure, and shall be certified to the Chief Justice of the Supreme Court as provided therein. The motion days provided herein are established pursuant to Rule 78 of the Kentucky Rules of Civil Procedure.

Adopted this 19<sup>th</sup> day of August, 1976.

  
THOMAS B. SPAIN  
JUDGE, HOPKINS CIRCUIT COURT